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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,106	11/17/2003	Harue Nakashima	0553-0382	3243

7590 11/02/2005

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CUMMINGS & MEHLER, LTD.
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200 WEST ADAMS STREET
CHICAGO, IL 60606

EXAMINER

GARRETT, DAWN L

ART UNIT	PAPER NUMBER
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1774

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/715,106

Applicant(s)

NAKASHIMA ET AL.

Examiner

Dawn Garrett

Art Unit

1774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-6 and 10-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-6 and 10-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This Office action is responsive to the amendment dated August 11, 2005. Claims 4-6, 11-14, 19-22, and 27-30 were amended. Claim 35 has been added. Claims 1-3 and 7-9 are canceled. Claims 4-6 and 10-35 are pending.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. The rejection of claims 6 and 10 under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (JP 2001-043976 A) in view of Littman et al. (US 5,405,709) is withdrawn due to the amendment of claim 6.
4. Claims 4, 5, and 11-34 are again rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (JP 2001-043976 A) in view of Mueller et al. (US 6316786). Suzuki et al. discloses an organic electroluminescent element comprising at least one organic layer, which comprises a compound of a tetravalent metal. Preferably the organic layer is a luminescent layer (see abstract). Formula (1) at paragraph 27 reads upon the instant formula 1. Also, formula (2) at par. 31 and formula (3) at par. 32 read upon the instant formula 1. Formula (6) at par. 43 further reads upon the instant formula 1. The compound is placed in a luminous layer and is further doped with a fluorescent compound (see par. 33, Example 5). Although Suzuki et al. teaches a further compound that is fluorescent may be included in the luminescent layer, Suzuki et al. fails to specify a red luminescent compound such as DCM1, DCM2 or DCJT. Mueller et al. teaches in analogous art that each of DCM1, DCM2, or DCJT are well known luminescent dopants (see col. 11, line 66 to col. 12, line 24). It would have been obvious to one of ordinary

Art Unit: 1774

skill in the art to have included one of DCM1, DCM2 or DCJT in the luminescent layer of Suzuki et al., because Suzuki et al. generally teaches a emissive dopants may be included and Mueller et al. teaches DCM1, DCM2 and DCJT are well known dopants for an emissive layer.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 6, 10 and 35 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a device comprising a very specific formula 1 compound used in combination with other specific compounds resulting in a red layer, blue layer and green layer, does not reasonably provide enablement for all of the formula 1 materials to be used in such a way as to form a red layer, blue layer and green layer of a device. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims.

Response to Arguments

7. Applicant's arguments filed August 11, 2005 have been fully considered but they are not persuasive.

Applicant states the Suzuki DPVBi material is not an emissive dopant because the DPVBi does not emit light. The examiner submits that there is no clear evidence on the record that the DPVBi would not act as a light emitter. In the art, DPVBi is a known luminescent compound. Per M.P.E.P. § 2145, the arguments of counsel cannot take the place of evidence in

Art Unit: 1774

the record. *In re Schulze*, 346 F.2d 600, 602, 145 USPQ 716, 718 (CCPA 1965); *In re Geiseler*, 116 F.3d 1465, 43 USPQ2d 1362 (Fed. Cir. 1997).

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dawn Garrett whose telephone number is (571) 272-1523. The examiner can normally be reached Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached at (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Art Unit: 1774

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dawn Garrett
Primary Examiner
Art Unit 1774

October 25, 2005